IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 248 of 1990

HONOURABLE MR.JUSTICE KS JHAVERI

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UNITED INDIA INSURANCE CO LTD - Appellant(s)
Versus
JALUBHAI HIRABHAI PARGI & 5 - Defendant(s)

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Appearance :
MR PV NANAVATI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 3, 6,
GOVERNMENT PLEADER for Defendant(s) : 4 - 5.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 19/07/2006

ORAL JUDGMENT

1. This appeal is directed against the judgement and award passed by the Special Motor Accident Claims Tribunal, panchmahals at Godhra in Motor Accident Claim Petition No.248 of 1984 whreby the original claimants were awarded a sum of Rs.70000/-.

2. The case of the original claimants was that their son Khemabhai and other labourers were sitting on a trolly loaded with earth and were going to Nana Natva near Garadia. Khemabhai was sitting on the mud-guard. When the tractor reached near Nana Natva the tractor dashed with a tree as a result of which Khemabhai fell down, sustained injuries and later on died. The claimants therefore filed the aforesaid claim petition claiming a total sum of Rs.97000/-. The tribunal has passed the aforesaid amount awarding the said sum.

3. Learned Advocate for the appellant submitted that the tractor in

question was not insured with the appellant at the time of the accident. He submitted that it is evident from the FIR that the tractor was not involved and therefore insurance company cannot be saddled with the liability. It is further submitted that the vehicle in question is a Tractor which is not meant for carrying passengers and on this ground also the appellant is not liable to pay compensation.

4. It is not in dispute that the vehicle involved in the accident is a Tractor. Under Section 95 of the Motor Vehicles Act, “Tractor” has been defined as a vehicle not meant for carrying passengers. Otherwise also, it is a matter of common knowledge that Tractor is not meant for carrying passengers. Whosoever takes a ride on it shall be doing so at his own risk. If some unfortunate event takes place, then neither the Driver of the Tractor nor its Owner could be held liable to pay compensation and if the Tractor is insured with the Insurance Company, then no liability could be fastened on the Insurance Company for the death or injuries sustained in the accident.

5. The aforesaid principle has been laid down by a Division Bench of this Court in the case of **United India Insurance Co. Ltd. v. Manjulaben Purshottamdas Patel & ors.** reported in **1994 (1) G.L.R. pg. 269** wherein, it has been held that a “Tractor” or a “Trailer” being a “goods vehicle”, the Insurance Company could not be made liable to pay compensation.

6. Similar principle has been laid down by the Hon'ble the High Court of

Punjab and Haryana in the case of **New India Assurance Co. Ltd. v. Tarawati and others** reported in **1994 A.C.J. pg. 822** and in recent decisions of the Hon'ble the Apex Court in the case of **Ramashray Singh v. New India Assurance Co. Ltd. & ors** reported in **J.T. 2003 (6) S.C. pg. 97** and in the case of **National Insurance Co. Ltd. v. V. Chinnama and others** reported in **A.I.R. 2004 S.C. pg. 4338.**

7. In above view of the matter, it is amply clear that a “Tractor” is a “goods vehicle” and, therefore, the appellant Insurance Company could not be made liable to pay the compensation in question. Hence, it has to be concluded that the Tribunal has committed an error in holding the Insurance Company liable to pay compensation since the vehicle involved in the accident is a “goods vehicle” i.e. Tractor. Hence, the impugned award of the Tribunal deserves to be quashed and set aside.

8. In the result, the appeal is allowed. The impugned judgement and award passed by the Special Motor Accident Claims Tribunal, panchmahals at Godhra in Motor Accident Claim Petition No.248 of 1984 qua the appellant is quashed and set aside. It will be open to the claimants to recover the amount from the other concerned parties. No order as to costs.

(K. S. JHAVERI, J.)